



July 20, 2005

Attention: Imported Water Committee

Quantification Settlement Agreement Quarterly Report (Information)

Purpose

To provide a quarterly status report on the implementation of the Quantification Settlement Agreement (QSA).

Background

The QSA Quarterly Report provides information about the Water Authority's Colorado River water supply program, which includes activities related to the Water Authority/Imperial Irrigation District water transfer, the All American Canal Lining Project, and the Coachella Canal Lining Project.

Discussion of QSA Status

This section of the report includes a brief status report for each major component of the Colorado River water supply program.

All American and Coachella Canal Lining Projects

The California Legislature authorized \$59.1 million for fiscal year 2005-06 to continue work on the canal lining projects. Of that total, \$19.1 million was designated for the Coachella Canal Lining Project (CCLP) and the remaining \$40 million for the All American Canal Lining Project (AACLCP). The management team for each project expects these funds, plus unused state funds carried forward from the previous year, to be sufficient to carry out planned design and construction activities during the 2005-06 fiscal year. Of the total \$219.3 million of state funds available for the projects, about \$133 million has been programmed for spending through this fiscal year, leaving about \$86.3 million remaining to complete the projects. The CCLP is expected to be complete by April 2007; the AACLCP by the end of calendar year 2008.

All American Canal Lining Project.

A citizen's group and two non-profit organizations, one based in Mexico, the other in California, in May filed 60-day notices of intent to sue regarding potential environmental impacts of the AACLCP. The citizen's group, Desert Citizens Against Pollution, requested the U.S. Department of Interior to prepare a supplemental environmental impact statement (EIS) for the project. The group asserted that the project would damage wetlands in both the United States and Mexico, harm endangered wildlife, and violate U.S. clean air and water laws. The Mexican non-profit group, Cosejo de Sesarrolo Economico de Mexicali, and the U.S. non-profit group, Citizens United for Resources and the Environment (CURE), issued a joint 60-day notice based on many of the same issues.

The joint notice to sue focused on potential damage to a wetland complex, called the Andrade Mesa Wetlands, located in Mexico near the AACLCP. This wetlands was the subject of an

environmental assessment completed in March 2005 by two conservation groups, the Sonoran Institute and Pronatura. The assessment did not include an analysis of a seepage path from the canal to the wetlands, but based upon other studies concluded that the AACLP could affect 4,650 acres of the wetlands habitat and 960 acres of adjacent terrestrial habitat in Mexico. It also requests that a supplemental EIS be completed, and that the U.S. either halt the canal lining project, or mitigate impacts to the habitat.

Water Authority staff are working with representatives of other Colorado River water agencies, the San Luis Rey Indian Water Authority, Bureau of Reclamation, Interior, and other agencies to respond to these notices. The U.S. Department of State and other federal agencies have indicated that the AACLP is not required to mitigate for transnational environmental impacts.

The AACLP is also the focus of attention for Mexican officials concerned about potential water supply impacts to the Mexicali Valley caused by loss of seepage water. These issues are being addressed by the U.S. International Boundary and Water Commission and other U.S. federal government agencies. The IBWC and California water agencies met with Mexican representatives in June to further discuss actions that the U.S. has offered to take on the basis of international comity, such as conveying a portion of Mexico's apportionment from the river through the All American Canal, or assisting with improvements to Mexico's water management. The parties are continuing to discuss these issues on both technical and diplomatic levels.

The 60 percent project design was completed in June. Several major issues need to be resolved, including how to address higher-than-expected groundwater in certain reaches of the canal, an agreement for how much additional operational storage is needed (the new canal will be narrower and have less storage than the existing canal), and finalizing alignments and construction phasing. Construction for the project is expected to begin in early 2006 and be complete by the end of 2008.

Coachella Canal Lining Project. Construction of the CCLP has been proceeding generally according to schedule. As of the end of May, the contractor had excavated about 2.4 million cubic yards of soil, which is about 43 percent of the excavation needed to complete the project. Concrete work is continuing on canal siphons and check structures. The contractor has indicated that canal lining paving may be started this winter, ahead of schedule. The entire project is expected to be completed in April 2007. A total of \$24.3 million has been expended to date, about 30 percent of the \$83.7 million of available state funds. Apart from managing construction of the canal, the project team is working on meeting environmental mitigation requirements, including the acquisition of property for desert riparian and marsh habitat.

IID and the Local Entity

On May 25 the Imperial Irrigation District (IID) sent a letter to the Water Authority requesting the initiation of arbitration proceedings to resolve a dispute over the water transfer agreement. The dispute is related to the measurement of third-party impacts from fallowing farmland. IID disagrees with the Water Authority over what portion of the payments made by the Authority to

the IID for transferred water should count as a financial benefit, or economic stimulus, when measuring net third-party impacts. These payments offset negative economic impacts from fallowing farmland. IID has indicated that only the funds paid by IID to its participating farmers should be counted as a benefit. The Water Authority position is that all water transfer proceeds that produce an actual economic stimulus should be included in the measurement. This position is supported by the findings and conclusions presented in two annual reports of the Local Entity's Economist Panel, which has the contractual responsibility of determining net third-party impacts.

In a letter dated April 29, the Local Entity requested to meet and confer with the Water Authority on similar issues of water transfer contract interpretation. The Water Authority responded that it is premature to meet with the Local Entity regarding these matters until they are resolved with the IID. The County of Imperial sent a letter June 14, stating that the county supports IID's interpretation of the water transfer agreement, and requesting to participate in any arbitration proceedings. The Water Authority responded to this letter by outlining the dispute resolution process and stating that the issue of contract interpretation must be resolved between the Water Authority and IID.

In June the Economist Panel produced its second annual report, which measured third-party impacts for calendar year 2005. The report shows the water transfer resulted in a net gain of \$4.3 million in third-party incomes in Imperial Valley for the year. The report was produced by two of the three economists on the Panel (the economist appointed by the Water Authority and an economist selected jointly by the Water Authority and Local Entity economists). The Local Entity had earlier instructed its appointed economist not to participate in the 2005 report. Along with IID, the Local Entity disputes the use of certain water transfer funds that were determined by the other two economists to provide economic benefits.

The water transfer agreement provides for specific dispute resolution steps to be taken before arbitration can begin. First, the dispute is submitted to an Administrative Committee, which is comprised of two representatives from the IID and two from the Water Authority. Gordon Hess and Jim Taylor with legal counsel Scott Slater are representing the Water Authority, and Elston Grubaugh and John Carter with legal counsel David Osias are representing IID. If the Administrative Committee cannot resolve the issues, the matter is referred to a Dispute Panel comprised of two Board members and one staff representative from each agency. If that is not successful, binding arbitration is used to obtain a final resolution.

Water Authority staff and consultants are continuing to work with IID and the Local Entity to reach consensus over the outstanding issues. The Administrative Committee has scheduled its first meetings this month. Other work that must be accomplished in the near future includes the selection of a new third economist, who will be jointly appointed by the Local Entity and the Water Authority. The Local Entity recently stated that it would not approve the renewal of the current third economist.

Joint Powers Authority (JPA)

The Quantification Settlement Agreement (QSA) JPA in June approved a \$9.7 million budget for fiscal year 2005-06. The JPA is tasked with administering funds needed to implement environmental mitigation for the water transfer. This includes \$1.8 million for mitigation water for the Salton Sea, which is produced by fallowing Imperial Valley farmlands. The single largest component of the FY 06 budget is about \$2.8 million for the creation of marsh habitat. Other tasks include wildlife surveys and studies, worker education programs, and habitat mapping. The JPA water agencies (Coachella Valley Water District, IID, and the Water Authority) are responsible for funding a total of up to \$133 million in mitigation projects (in 2003 dollars). Additional costs for mitigation must be paid by the State of California.

Habitat Conservation Plan (HCP)

As part of the QSA, the Water Authority and CVWD agreed to spend up to \$5 million to implement a habitat conservation plan (HCP) by the end of 2006. The HCP is to mitigate impacts of QSA water transfers in the Imperial Valley. Last month, the Water Authority and CVWD reached an agreement with IID, in which IID agreed to assume responsibility for implementing the HCP. Coachella and the Water Authority will provide a payment of \$3 million to fund this effort, thus reducing the two agencies financial obligation by \$2 million. A separate report has been prepared by staff on this agreement for the Imported Water Committee.

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